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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 10/619,267 | 07/14/2003 | Benno Meyer | 056982/00031 | 7067 |
| 7590 | 07/20/2004 | | EXAMINER | |
| Randy Lipsitz Kramer Levin Naftalis & Frankel LLP 919 Third Avenue New York, NY 10022 | | | SCHWARTZ, CHRISTOPHER P | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3683 | |

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

KAB

| | | |
|------------------------------|-------------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/619,267 | MEYER ET AL. |
| | Examiner Christopher P. Schwartz | Art Unit 3683 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-28 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) Notice of Informal Patent Application (PTO-1447)
- 6) Other: ____

Christopher P. Schwartz
CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement has been received and considered.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1,9,17,23 line 7 should “anti-slip regulation system” be “anti-lock brake system” since this seems to be the system to effect braking?

Regarding claims 4,6,9,23 it is unclear what is meant by the phrase “vehicle reference speed formed by said antilock control system”. How does the anti-lock brake control system “form” the vehicle reference speed?

Regarding claims 8,16,22,28 last line “the previous deceleration...” lacks antecedent basis.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuo et al. in view of Kawamoto.

Regarding claims 1,17 Matsuo et al. discloses a vehicle brake system which includes automatic braking control (see col 7 lines 57+), ABS control, and Traction Control Systems (see col. 4 lines 43+ over to the top of column 5). Note also in column 4 Matsuo et al. includes front-rear apportioning control.

Kawamoto teaches the known fact that automatic braking control may not provide enough braking pressure to slow or stop the vehicle in emergency situations (see column 1 lines 22+).

It is notoriously well known to effect different types of braking control based on the wheel speed differences of the driven and non-driven wheels/axles

of a vehicle. Such may be the case for stability control of the vehicle, abs control or front-rear apportioning control as discussed above.

The skilled worker in the art at the time of the invention would have found it obvious to have compared the wheel speeds of a driven axle with a non driven axle to determine an emergency condition and to have applied braking pressure to the wheels brakes of Matsuo et al., irrespective of any automatic braking control as the automatic braking control may not be enough, as generally taught by Kawamoto, since wheel speed comparisons are one of many well known options for detecting slip and/or emergency conditions.

Regarding claims 2,10,18,24 these requirements are met.

Regarding claims 3,11,19,25 to have incorporated roll-over control into the many stability control systems disclosed by Matsuo et al. would have been obvious to the skilled worker in the art dependent upon the intended environment of use for the vehicle for safer operation.

Regarding claims 4,6,9,12,14,20,23,26 subject to the 112 rejections above, to have compared the detected wheel speeds of a non driven axle (note wheel speed sensors disclosed in col. 22 lines 15+) with a vehicle reference speed to determine possible activation of the anti-lock control system or for or during stability control would have been obvious to the ordinary skilled worker in the art at the time of the invention as such a comparison for this reason is old and well known in the art.

Regarding claims 5,13,21,27 these limitations would simply have been obvious for increased stability of the vehicle (i.e. front-rear apportioning control) as discussed earlier.

Regarding claims 7,15 it is known to compare such wheel speeds upon turning of the vehicle with a vehicle reference speed (which in turn is generally deduced from the wheel speed sensors) for increased stability of the vehicle, such as spin out or fishtail prevention. Accordingly one having ordinary skill in the art at the time of the invention would have found it obvious to have performed the claimed comparison in the device of Matsuo et al. for the reason above as such a comparison would simply amount to an alternate equivalent method of the left-right braking force distribution control (col 4 lines 57-60) disclosed by Matsuo et al. during turning of the vehicle. Since the vehicle reference speed may be determined from one or two of the inner wheel speed sensors the reference speed is inherently based on the characteristics of the inside of the curve.

Regarding claims 8,16,22,28 since it is known to compare vehicle decelerations (i.e. wheel decelerations from which the vehicle deceleration(s) may be derived) at different times to determine the appropriate braking pressure applied to the wheels during different stability control routines of the vehicle, the ordinary skilled worker in the art would have found it a simple obvious alternative equivalent to have used such a comparison to the methods taught by Matsuo et al. See the discussion in col 24 lines 24+ regarding the opening and closing of the valves to avoid excessive slipping tendency of the wheel(s).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited have been cited for showing other related systems..
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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